

NICS TRAINING

NATIONAL INSTANT CRIMINAL BACKGROUND CHECKS SYSTEM



Provided by Kansas Highway Patrol CJIS Unit

NICS was developed in response to the enactment of *The Brady Handgun Violence Prevention Act of 1993* (*Brady Act*).



This act **initially** mandated an instant criminal background check for firearm purchase eligibility determinations only.

Recent changes **now** provide for these checks prior to disposing of or returning a recovered or confiscated firearm currently in law enforcement possession.

What can NICS do?

When a NICS background check is initiated, a search of the following national databases is conducted:

- National Crime Information Center (NCIC)
- Interstate Identification Index (III)
- NICS Index
- Immigration & Customs Enforcement (IAQ), *when non-U.S. citizenship information is provided*



Currently...

Many law enforcement and criminal justice officials are already checking NCIC and/or III for disqualifiers prior to disposing of (returning) firearms in their possession with a PUR/F.

However, the information maintained in the NICS Index is not available through a traditional NCIC/III check.

The NICS Index maintains well over 12.5 million records provided by local, state, tribal, and federal agencies identifying persons prohibited from receiving/possessing firearms pursuant to federal and/or state law, to include anyone with:

- ❖ felony or qualifying misdemeanor prohibitions
- ❖ fugitive from justice status (warrants)
- ❖ mental health adjudications or commitments
- ❖ an illegal/unlawful alien status
- ❖ controlled substance abuse
- ❖ a dishonorable discharge from military service
- ❖ a renounced U.S. citizenship
- ❖ protection order prohibitions
- ❖ indictment/information prohibitions

Access to NICS



Initially, access to the NICS database was limited to background checks as relating to potential firearm transfers initiated by Federal Firearms Licensees (FFL), gun dealers.

NICS regulations have since been amended to allow all law enforcement and criminal justice agencies access to NICS for the purpose of disposing or returning of a recovered or confiscated firearm currently in law enforcement possession. (Title 28, CFR, Section 25.6(j)).

NICS is an investigative tool to assist law enforcement agencies in making better informed decisions regarding an individual's eligibility to receive firearms in accordance with federal and state law.

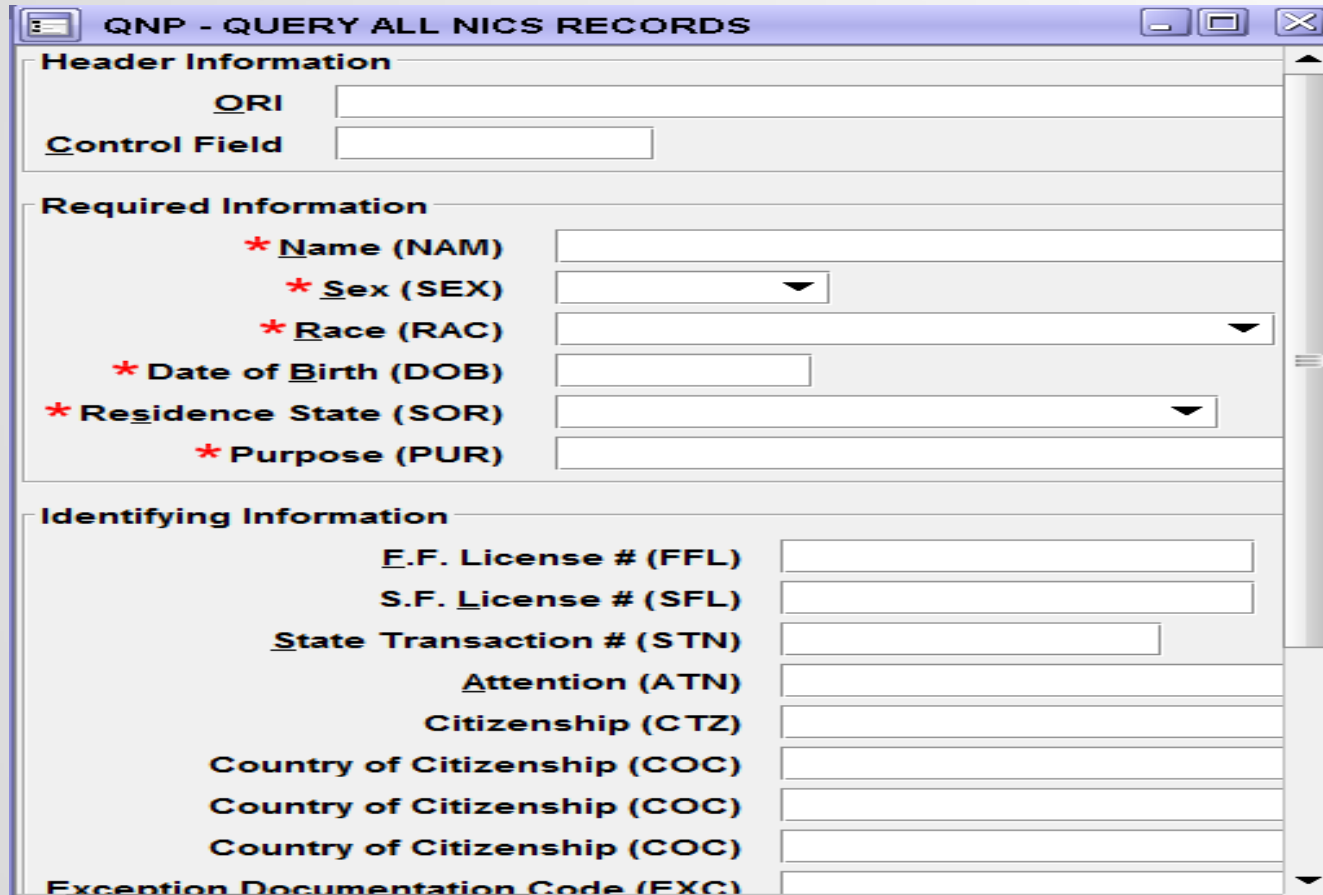
All subject records submitted to the NICS Index are predetermined to be firearm prohibiting by the record-contributing agency prior to their entry into the database.

A valid name and descriptor-based match with a NICS entry provides the inquiring agency with immediate grounds to deny the firearm transfer.

In Kansas...

A NICS Background
Check is initiated
through NCIC, via the
QNP message key.

Submitting an NCIC QNP Message



The screenshot shows a software window titled "QNP - QUERY ALL NICS RECORDS". The window contains three main sections: "Header Information", "Required Information", and "Identifying Information".

Header Information

- ORI: [Text Field]
- Control Field: [Text Field]

Required Information

- * Name (NAM): [Text Field]
- * Sex (SEX): [Dropdown Menu]
- * Race (RAC): [Dropdown Menu]
- * Date of Birth (DOB): [Text Field]
- * Residence State (SOR): [Dropdown Menu]
- * Purpose (PUR): [Text Field]

Identifying Information

- E.F. License # (FFL): [Text Field]
- S.F. License # (SFL): [Text Field]
- State Transaction # (STN): [Text Field]
- Attention (ATN): [Text Field]
- Citizenship (CTZ): [Text Field]
- Country of Citizenship (COC): [Text Field]
- Country of Citizenship (COC): [Text Field]
- Country of Citizenship (COC): [Text Field]
- Exception Documentation Code (EXC): [Text Field]

QNP Required Data

The following data is required by NCIC to initiate a QNP:

ORIGINATING AGENCY IDENTIFIER (ORI)

LAST NAME, FIRST NAME (NAM)

GENDER (SEX)

RACE (RAC)

DATE OF BIRTH (DOB)

STATE OF RESIDENCE (SOR)

PURPOSE IDENTIFICATION NUMBER (PUR ID) 

PUR IDs

22—Return of Handgun
23—Return of Long gun
24—Return of Other

ORIGINATING AGENCY CASE NUMBER (OCA) 

OCA field has not been
programed into Open Fox. It
will become a mandatory field
in 2017.

QNP Optional Data

MIDDLE NAME

SOCIAL SECURITY NUMBER (SOC)

PLACE OF BIRTH (POB)

HEIGHT (HGT)

WEIGHT (WGT)

CITIZENSHIP (CTZ)



COUNTRY OF CITIZENSHIP (COC)

If the citizenship information is provided, and the subject indicated is *not a U.S. citizen*, additional data (e.g., COC, MNU, EXC) is required.

MISCELLANEOUS NUMBER (MNU) – *Alien Registration Number or Non-Immigrant Admission Number when CTZ is indicated as an “F”.*

EXCEPTION (EXC) – *does the subject have an exception allowing him/her to possess/purchase firearms in the U.S.? (see slide 13)*

STATE TRANSACTION NUMBER (STN)

QNP Processing for Non-U.S. Citizens

When initiating a QNP, and the prospective firearm transferee is **a non-U.S. citizen**, it is recommended agencies obtain the transferee's current immigration status from the Department of Homeland Security's U.S. Immigration and Customs Enforcement (ICE), via an IAQ transaction.

The transmission of an Immigration Alien Query (IAQ) to ICE is accomplished during the NICS check by indicating "F" in the CTZ field of the QNP transaction.

It can also be accomplished by electronically transmitting an IAQ directly to ICE (utilizing the purpose code of "F").

QNP Processing on Non-U.S. Citizens

Non-immigrant with Visa Exception Field (EXC):

The following values may be used:

- A – Valid Hunting License/Permit
- B – Official Representative of a Foreign Government
- C – Foreign Government Official/Distinguished Visitor
- D – Foreign Law Enforcement Officer
- E – Waiver from Prohibition
- F – Other

QNP Response—No Hits

This sample QNP response indicates the subject's name and descriptive data did not generate any hits to information made available through the national databases searched by NICS.

6L01XXXXXXXXXXXXXX

DATE: 02/01/14 TIME: 11:35

ATN/SOME PERSON

NAM/GUNBACH, IVANA MIA SEX/F RAC/W

DOB/06/12/89

SOC/234-00-5678 SOR/WV

STATESEARCHRESPONSE--COMPLETE

NCIC - NO RECORDS FOUND

III - NO RECORDS FOUND

NICS - NO RECORDS FOUND

NTN/XXXX-XXX

NICS-END

QNP Response—NICS Index Hit

This sample QNP response indicates NICS generated a hit.

If, based on the comparison of name and descriptive data, the prospective firearm transferee is deemed a “valid” match to the subject of the NICS Index record, the transaction can be denied.

NAM/DEBANKS, ROB SEX/M RAC/W DOB/08/21/1978
SOC/987-00-6543 SOR/WV

STATESearchResponse-- COMPLETE

NCIC - NO RECORDS FOUND

III - NO RECORDS FOUND

NICS - HITS

NTN/XXXX-XXX

NICS RESPONSE DATA:

===== NICS INDEX =====

NICS RESPONSE DATA:

RECORD FOUND BY: PRIMARY NAME

NRI: 1234567890 STATUS: ACTIVE EXPIRATION DATE: N/A

PCA: D - Adjudicated Mental Defective/Committed to a Mental Institution

NAM: DeBanks, Rob

SEX: M RAC: W HGT: N/A WGT: N/A EYE: N/A HAI: N/A

POB: WV SOR: N/A

DOB: 08/21/1978

SSN: N/A

AKA: N/A

SMT: N/A

MNU: N/A

MIS: No additional descriptive information available

ORI: WVSP02X5 OCA: 41600620XXXX

DNY: N/A

DATA-SRC: WV

ARI: WVCR22122

CREATED-DATE: 05/19/2011

UPDATED-DATE: 05/19/2011

NICS-INDEX-END

NCIC-BEGIN

NCIC RESPONSE DATA:

NICS-END

QNP Response—NCIC Hit

This sample QNP response shows NCIC generated a hit.

If deemed a “valid” match, agency should review the record, conduct any outreach, etc., in order to determine if a state or federal firearm prohibition exists.

NAM/GRUDGE, KAREN A SEX/F RAC/W DOB/04/30/1989
SOC/123-00-4567 SOR/WV

STATESEARCHRESPONSE-- COMPLETE

NCIC - HITS

III - NO RECORDS FOUND

NICS - NO RECORDS FOUND

NTN/XXXX-XXX

===== NCIC ===== (1 OF 1)

MKE/PROTECTION ORDER

NAM/GRUDGE, KAREN A

SEX/F RAC/W POB/0H DOB/19890430

HGT/506 WGT/120 EYE/BLU HAI/BRO

BRD/Y ISD/20130801 EXP/NONEXPIRING

PCO/01 - THE SUBJECT IS RESTRAINED FROM ASSAULTING, THREATENING, ABUSING,
PCO/HARASSING, FOLLOWING, INTERFERING, OR STALKING THE PROTECTED PERSON
AND/OR

PCO/THE CHILD OF THE PROTECTED PERSON.

PCO/02 - THE SUBJECT MAY NOT THREATEN A MEMBER OF THE PROTECTED
PERSON'S FAMILY.

PCO/04 - THE SUBJECT IS REQUIRED TO STAY AWAY FROM THE RESIDENCE,
PROPERTY,

PCO/ OR PLACE OF EMPLOYMENT OF THE PROTECTED PERSON OR OTHER FAMILY .

PCO/05 - THE SUBJECT IS RESTRAINED FROM MAKING ANY COMMUNICATION WITH
THE

PCO/PROTECTED PERSON INCLUDING BUT NOT LIMITED TO, PERSONAL, WRITTEN,
OR

PCO/TELEPHONE.

PCO/07 - THE SUBJECT IS PROHIBITED FROM POSSESSING AND/OR PURCHASING A
FIREARM

PCO/OR OTHER WEAPON.

SSN/123-00-4567

ORI/0H0680000 FBI/12345XXX3

PNO/10DVXXX938 CTI/0H0XXXXX3J

NIC/H06XXXXX16

NICS-END

QNP Response—III Hit

This sample QNP response shows III generated a hit.

If deemed a “valid” match, agency should obtain and review the criminal history record in order to determine if a state or federal firearm prohibition exists.

NAM/O'SHEA, RICK SEX/M RAC/W DOB/11/15/1968
SOC/ 111-00-3333 SOR/WV
STATE SEARCH RESPONSE -- COMPLETE
NCIC - NO RECORDS FOUND
III - HITS
NICS - NO RECORDS FOUND
NTN/XXXX-XXX
===== III =====
THIS INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR
INQUIRY ON NAM/DOE, JANUS SEX/F RAC/B DOB/19670313 PUR/F
NAME FBI NO. INQUIRY DATE
O'SHEA, RICK 123456XX 7 2014/01/01
SEX RACE BIRTHDATE HEIGHT WEIGHT EYES HAIR BIRTH PLACE
M W 1968/11/15 510 190 BLK BLK CO
SOCIAL SECURITY
111-00-3333
THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE
FOLLOWING:
FBI - FBI/123456XX7 - COURT DISPOSITION PENDING
/CONVICTION STATUS
UNKNOWN
VIRGINIA - STATE ID/VA12XX567 - NO DISQUALIFICATIONS FOR
FIREARMS
THE RECORD(S) CAN BE OBTAINED THROUGH THE INTERSTATE
IDENTIFICATION
INDEX BY USING THE APPROPRIATE TRANSACTION.

NICS-END

Conducting an Nlets Record Query

When an agency determines their subject's name and descriptive information to be a valid match with the name and descriptive information of a III criminal history record, the agency should obtain the record and review to determine if any state or federal firearm prohibitions exist.

This can be completed by conducting an Nlets Record Query (FQ) using the State Identification Number (SID) for the relating record.

Firearm Prohibitions

When processing a QNP via NCIC, agencies SHOULD be reviewing the records returned by NICS extensively to determine if any are a valid match. If so, determine if any state or federal firearm prohibitions exist.

The federal firearm prohibitions that disqualify an individual from the receipt and/or possession of firearms are outlined on slide 27.

Firearm Prohibitions

There are numerous state firearm prohibitions based on independent state law that should be considered when determining if a prospective firearm transferee is eligible to receive/possess a firearm. State firearm prohibitions are applicable to the prospective firearm transferee's state of transfer and state of residence.

In the state of Kansas, a person must be at least 18 years of age to possess a firearm. However, minors under the age of 18 may possess a firearm if under supervision of a parent, legal guardian, or a qualified instructor.

Challenges or Appeals to Denials

Agencies conducting QNPs should address any challenges (appeals) requested by persons who believe they have been wrongfully denied the transfer of a firearm based on a deny decision rendered by the agency.

Agencies must maintain an SOP addressing this process.

The NICS Transaction Number (NTN) must be provided to the denied subject for reference during the appeal process.

Challenges or Appeals to Denials

All appeals of a denial decision must be made **IN WRITING** to the NICS Section, at FBI, directly.

Literature on the appeal process (to include mailing addresses, telephone numbers and handouts for disseminating to denied subjects) can be found at <http://www.fbi.gov/nics-appeals>.

The NICS Section will provide the necessary information to correct any criminal history records at the local agency level, if applicable.

QNP Processing

Audits

Any agency conducting QNP transactions will be audited for their NICS usage and access. The OCA and NICS Transaction Number (NTN) are utilized during the audit process by the CJIS Audit Unit and should be maintained with the agency's case file or a transaction log.

QNP TRANSACTION LOG								
AGENCY:				ORI:				
DATE:	PUR/	ATN/	OCA/	NAM/DOB:	NTN/	REA/	INFO	INITIALS:
AGENCY:								
DATE:	PUR/	ATN/	OCA/	NAM/DOB:	NTN/	REA/	INFO	INITIALS:
AGENCY:								
DATE:	PUR/	ATN/	OCA/	NAM/DOB:	NTN/	REA/	INFO	INITIALS:
AGENCY:								
DATE:	PUR/	ATN/	OCA/	NAM/DOB:	NTN/	REA/	INFO	INITIALS:
AGENCY:								
DATE:	PUR/	ATN/	OCA/	NAM/DOB:	NTN/	REA/	INFO	INITIALS:
AGENCY:								

PURPOSE CODE (PUR/)	ATTENTION (ATN)	REASON (REA)	INFO RELEASED:
22 - RETURN OF HANDGUN	FULL FIRST AND LAST NAME OF REQUESTOR FOLLOWED	RO/ RELEASED TO OWNER	NRF (NO RECORD FOUND), III, NCIC, NICs
23 - RETURN OF LONG GUN	BY A SLASH OR DASH AND THE LAST THREE CHARACTERS	RF/RELEASED TO FAMILY MEMBER	
24 - RETURN OF OTHER	OF OPERATORS USERID	RX/RELEASED TO "OTHER"	

Retention of NICS Information

- NICS transactions that **do not** result in the denial of a firearm transfer are purged from NICS pursuant to federal retention regulation (28 C.F.R. 25.9).
- NICS transactions that **do** result in the denial of a firearm transfer are maintained by the NICS database, at FBI, for a period of 110 years.
- The QNP checks conducted by agencies through NCIC are not subject to federal mandated NICS retention; however, they may be subject to state and/or agency retention regulation/policy.

Providing a Final Status to NICS

When processing background checks initiated through NCIC, agencies will make the final decision if the firearm transfer is allowed or denied. If denied, the final status should be electronically transmitted to NICS by the agency. This is accomplished through the agency interface with NCIC via the transmission of a NICS Denial Notification (NDN).

Providing a Final Status to NICS

Providing a final status to NICS (denied transactions) is highly encouraged as it allows NICS to retain the information for availability to other vital purposes, such as:

- during the CJIS audit process;
- responding to outreach efforts seeking assistance with specific record review and assessment;
- when processing appeal requests;
- for law enforcement purposes via the *NICS Denied Transaction File* in NCIC.

NICS Denied Transaction File

For those agencies who do not wish to participate in the NICS checks, there is still the NICS Denied Transaction File available.

Simply, if a subject is denied a firearms purchase as a result of a NICS check, then this denial is maintained in the QND file for a period of 6 months (180 days) from the date of denial.

While the reason for the denial will not be provided in the response, the presence of a denial record will be grounds for further review of the subject's history as regarding firearm possession through a standard NCIC/III query utilizing PUR/F.

The Gun Control Act

Title 18, United States Code,

Section 922(g) & (n)

Federal Firearm Prohibitions Apply to Any Person Who:

- (g)(1) Has been convicted of a crime punishable by imprisonment for a term exceeding one year (or a misdemeanor crime punishable by imprisonment for a term exceeding two years)
- (g)(2) Is a fugitive from justice
- (g)(3) Is an unlawful user of or addicted to any controlled substance
- (g)(4) Has been adjudicated as a mental defective or committed to a mental institution
- (g)(5) Is an alien who is illegally or unlawfully in the United States or who has been admitted to the United States under a nonimmigrant visa
- (g)(6) Has been discharged from the Armed Forces under dishonorable conditions
- (g)(7) Has renounced U.S. citizenship
- (g)(8) Is subject to a qualifying protection/restraining order
- (g)(9) Has been convicted in any court of a misdemeanor crime of domestic violence
- (n) Is under indictment/information for a crime punishable by imprisonment for a term exceeding one year

Case Study– 2007 Virginia Tech Shooting

Seung Hui Cho walked into a classroom on the campus of Virginia Polytechnic Institute and State University in Blacksburg, Virginia, opening fire into a classroom filled with students. By the time he was pronounced deceased, Cho had managed to take the lives of 32 people and wound another 17.

Because of legal loopholes existing in Virginia's state gun prohibitions, Cho was able to purchase these firearms legally. After an investigation into Cho's stalking 2 female students, a judge had declared him mentally ill and court ordered Cho to receive treatment. However, because he was not forcibly institutionalized for inpatient treatment, Cho's information was not entered into the state's repository for the NICS Index.

This loophole has since been closed with further federal and state legislation. Today, Cho would have qualified for entry into the NICS database under Virginia state prohibitions and would have been denied his 2 separate firearm purchases.

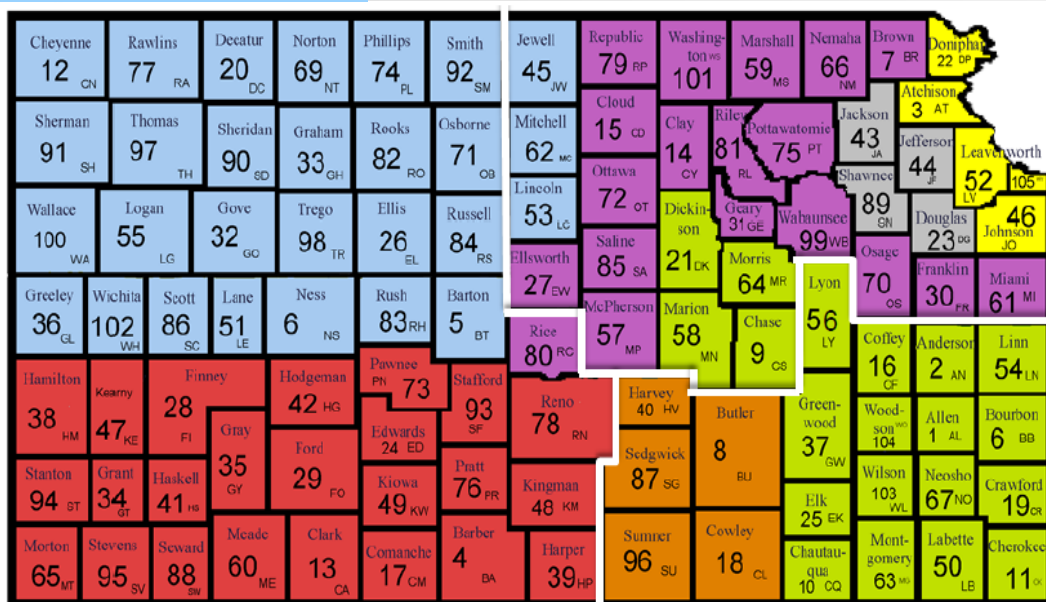


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Tammy L. Phillips	(304) 625-7418	tammy.phillips@ic.fbi.gov

Law Enforcement Officers can contact Don Christie (don.christie@ag.ks.gov or 785-368-6364) at the Kansas Attorney General's office for investigative follow ups on attempted firearm or explosives purchases in Kansas.

THE END

